

**FILED**

**NOT FOR PUBLICATION**

**SEP 02 2004**

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK**  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIO SANTANA; LEONOR PORTILLO  
GOMEZ; JOSE A. GOMEZ PORTILLO;  
VITALIANA GOMEZ PORTILLO; and  
LIZIDET GOMEZ PORTILLO,

Petitioners,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 03-70924

Agency Nos. A74-790-867  
A74-790-868  
A74-790-869  
A74-790-870  
A74-790-871

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted August 13, 2004\*\*  
San Francisco, California

Before: HAWKINS, THOMAS, and BEA, Circuit Judges.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The panel finds this case appropriate for submission without oral argument pursuant to Fed. R. App. P. 34(a)(2).

Mario Santana, Leonor Portillo Gomez, Jose A. Gomez Portillo, Vitaliana Gomez Portillo, and Lizidet Gomez Portillo (“Petitioners”) petition for review of the Board of Immigration Appeals’ (“BIA”) dismissal of their application for suspension of deportation.

We have jurisdiction to review the Petitioners’ Fifth Amendment due process claim that they received ineffective assistance of counsel at their suspension of deportation hearing before the Immigration Judge (“IJ”). *See Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001). However, we deny the petition because the Petitioners did not demonstrate that they were prejudiced such that the outcome of the proceeding may have been affected by the alleged violation. *See Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1226 (9th Cir. 2002).

To the extent that Petitioners seek review of the IJ’s determination that they did not prove their deportation would result in extreme hardship to themselves or a qualifying relative, we lack jurisdiction to review this determination. *See Kalaw v. INS*, 133 F.3d 1147, 1150 (9th Cir. 1997).

**PETITION FOR REVIEW DENIED IN PART, DISMISSED IN PART.**